UNITED NATIONS **E**

Economic and Social Council

Distr.
GENERAL

E/CN.4/1999/123
17 March 1999

Original: ENGLISH

COMMISSION ON HUMAN RIGHTS
Fifty-fifth session
Item 5 of the provisional agenda

THE RIGHT OF PEOPLES TO SELF-DETERMINATION AND ITS APPLICATION TO PEOPLES UNDER COLONIAL OR ALIEN DOMINATION OR FOREIGN OCCUPATION

Letter dated 5 March 1999 from the Permanent Representative of Azerbaijan to the United Nations Office in Geneva addressed to the secretariat of the fifty-fifth session of the Commission on Human Rights

I have the honour to transmit to you herewith the commentary of the Government of the Republic of Azerbaijan on the information relating to article 1 of the International Covenant on Civil and Political Rights contained in the initial report of the Republic of Armenia (CCPR/C/92/Add.2) submitted under article 40 of the Covenant.

I would be grateful if you could circulate the present letter and the above-mentioned Commentary* as an official document of the fifty-fifth session of the Commission on Human Rights under item 5 of the provisional agenda.

(Signed) Sima Eivazova
Ambassador
Permanent Representative

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Annex

COMMENTARY OF THE GOVERNMENT OF THE REPUBLIC OF AZERBAIJAN on the information relating to Article 1 of the International Covenant on Civil and Political Rights contained in the initial report of the Republic of Armenia (CCPR/C/92/Add.2) submitted under Article 40 of the Covenant

If we look back to the ancient times, historical facts confirmed by the research of Strabon and Plutarch unequivocally testify the existence at those times of the Albanian state on the territory which included present-day Nagorno-Karabakh region, the population of which was the precursor of modern Azerbaijani nation.

Independent Azerbaijani Khanate that was created later and covered the territory of the present-day Nagorno-Karabakh region of the Republic of Azerbaijan, during the days of feudal division on the threshold of XIXth century became the arena of strategic rivalry between Russian and Persian Empires. Under this circumstances, in accordance with the Agreement of 1805 the Karabakh Khanate was transferred to Russian Empire. Gulistan and Turkmenchay peace treaties of 1813 and 1828, that ended the Russian-Iranian wars fixed Azerbaijan, including the Karabakh Khanate, as a part of Russia.

During this period the mass migration of Armenians started from the Middle East to Transcaucasia including, *inter alia*, the territory of the present-day Armenia and the region of Azerbaijan which is known today as Nagorno-Karabakh. It is a matter of historical fact that only in 1828-1829, 130.000 Armenians from Middle East were resettled in Transcaucasia; later another 600.000 were also resettled. Thus, taking into account that the settlement of Armenians in Transcaucasia began only in the first part of the XIXth century, Nagorno-Karabakh region and any other part of the Azerbaijani territory could not be "... *an integral part of the Armenian State for thousands of years* ... " (page 6, point 21 of the report).

Nagorny-Karabakh was the inalienable part of the Democratic Republic of Azerbaijan in 1918-1920. After its fall the region was part of the Azerbaijan Soviet Socialist Republic. When Azerbaijan became in 1922 a part of USSR, the Nagorno-Karabakh region was within Azerbaijan, that was recognized by other participants of the Treaty on Formation of USSR, including Armenia. Belonging of this region to Azerbaijan was confirmed in the Constitution of USSR, and the Law of the Azerbaijan SSR "On the Nagorno-Karabakh Autonomous Region", adopted by the parliament of Azerbaijan in 1981 in accordance with the article 86 of the Constitution of USSR, which determined its legal status within Azerbaijan.

It should be underlined that the decision of Soviet authorities in 1921, mentioned in the report (page 6, point 21 of the report), did not transfer Nagorny-Karabakh to Azerbaijan but retained it within Azerbaijan, despite the attempts of Armenia, already possessed of the rich territories of Azerbaijani Zangezur, to seize the Nagorno-Karabakh region from Azerbaijan and to attach it to Armenia. Armenia never gave up the idea of appropriating that territory, and on many occasions raised this issue. Thus, in particular, on February 20, 1988, the Soviet of Peoples Deputies of the Nagorno-Karabakh Autonomous Region appealed to the Supreme Soviets of Azerbaijan, Armenia and USSR with request to consider a question on transfer of this region to Armenia. The information about this appeal and the reaction of the Supreme Soviet of Armenia to it are reflected in point 26 of the report (page 7).

However, the authors of the report passed over in silence the decisions in this regard of the supreme legislative bodies of Azerbaijan and USSR, which had deflected the above-mentioned request in accordance with article 78 of the Constitution of USSR of the following content: "*The territory of a Union Republic can not be altered without its agreement. The borders between the Union Republics can be altered on mutual agreement of the appropriate Republics, liable to approval by the USSR*". The Supreme Soviet of USSR confirmed by its decision of July, 1988, the unchanging of the borders of Azerbaijan and the sovereignty of Azerbaijan over its Nagorno-Karabakh region.

With the purpose to justify the territorial claims of Armenia to Azerbaijan the authors of the report refer to Law of USSR "On the procedure for dealing with matters arising from the secession of a Union Republic from the USSR" (page 8, point 29 of the report). Taking into account that the Law was aimed to regulate the interrelations within USSR and that the Union had been broken off, the Law had no any political and legal consequences. Moreover, the provisions of this Law were contradicted to the generally accepted imperative norms of International Law, as the destiny of a part of the territory of a Union Republic could be solved by all the people of a Union Republic but not of its certain part.

The comments by the authors of the report to the changes in the national composition of the population of the Nagorno-Karabakh Autonomous Region from 1970 to 1989 contained in the table (pages 6-7, points 22-23 of the report) are also attracted attention by very peculiar approach. Otherwise, how is it possible to explain the assert of the authors that "*The decline in the Armenian population of the Autonomous Region by 34,700 persons over the period from 1970 to 1989 was the result of the policy of Baku aimed at driving Armenians out of the region*" (page 7, point 23 of the report) if the above-mentioned table demonstrates at the same time that the number of Armenians in the Nagorno-Karabakh region of Azerbaijan increased over this period from 121.1 to 146.4 (in thousands)?

In reality, the facts in our possession, based on official statistical data, are spoken of a situation diametrically opposite to that represented by the Armenian propaganda. Despite this propaganda, Azerbaijanis have been annihilated and driven in great numbers from their historical lands since the Armenians began to settle the Transcaucasia in the first half of the XIXth century to the present days. Taking advantage of the changed demographic situation after their resettlement, Armenians, under the tutelage of the rulers of tsarist Russia and later of the communist leaders of the Soviet Union, oppressed the Azerbaijani population in various parts of Transcaucasia, including the Nagorno-Karabakh region of Azerbaijan, and increased their own numbers in those territories. According to Russian imperial statistics at the beginning of 20th century in Yerevan, present capital of Armenia, 70 per cent of the population were Azerbaijanis. By 1918 the number of Azerbaijanis in area which is now Armenia was 575,000 - more than a third of all inhabitants.

Following the establishment of Soviet rule in Armenia in late 1920, the Armenians were presented with a real opportunity to fulfil their age-old dream of creating an Armenian State and making territorial claims on neighbouring States. Over the 70-years of Soviet rule, the Armenians conducted a policy of building an "Armenia for Armenians only", expanding their territory at the expense of Azerbaijani lands and using every possible means to expel Azerbaijanis from their historical lands. The greatest achievement of the Armenian nationalists nestling in the leadership of the

USSR was the implementation at the State level, with Stalin's blessing, of repressive measures against Azerbaijanis on the pretext of providing a labour force for the cotton-growing regions of the Mugan-Milsk steppe in the Azerbaijani SSR and settling the vacated lands with Armenians coming from abroad. One of the leading figures in the Kremlin, the Politburo member for more than forty years A.Mikoyan, Armenian by origin, played a major role in the implementation of the Armenian nationalists' plans for the ethnic cleansing of Armenia. Making use of his influence over Stalin, he secured the signature of the "little father of the peoples" on resolutions by the Council of Ministers of the Union of Soviet Socialist Republics No. 4083 of December 23, 1947, "Resettlement of collective farmers and other Azerbaijani inhabitants from the Armenian SSR to the Kur-Arax Lowland in the Azerbaijani SSR", and No. 754 of March 10, 1948, "Action to resettle collective farmers and other Azerbaijani inhabitants from the Armenian SSR to the Kur-Arax Lowland in the Azerbaijani SSR". Under these resolutions, during the period 1948-1953 more than 150,000 Azerbaijanis were forcibly resettled from their historical homelands - the mountainous regions of Armenia - to the waterless steppes of Mugan and the Mil plateau. Many of them could not withstand the ordeal and perished.

The forcing of the Azerbaijanis out of Armenia was accompanied by flagrant violation of their constitutional rights and a refusal to cater to their national and cultural needs. Hundreds of thousand Azerbaijanis who remained in Armenia until 1988, surviving as compact groups, displayed none of the hallmarks even of national cultural autonomy. Attempts to so much as mention this were promptly, roughly and savagely suppressed.

As a result of the Armenian Government's deliberate policy of suppression and expelling the Azerbaijani population, there is no a single Azerbaijani at present in Armenia.

It is well known that the term "genocide" in Armenia has long since been converted from a legal concept into an abstract phenomenon unique to that country, inculcated in Armenian society from generation to generation in order to foster hatred of all things not Armenian, to create the ideological basis for territorial claims to the neighbouring States and to justify own crimes. Still, even the subtlest propaganda will never manage to dispute the real facts and to distort the chronology of the events at the end of 80th of this century.

Calling to mind events in several Azerbaijani towns (pages 7-8, points 27-28 of the report), the authors of the report "omit", as "true defenders of interests of the Armenian people" customarily do in such cases, to recall a number of circumstances that are of vital importance in elucidating the true causes of the widespread disturbances in the Azerbaijani towns they mention in the report, notably between February 26 and 28, 1988, in Sumgait. It must be recalled, first of all, that the first blood was split on the eve of the tragedy in Sumgait when, on February 22, 1988, near the settlement of Askeran on the Khankendi - Agdam highway, Armenian fighters opened fire on a peaceful demonstration by Azerbaijanis protesting against unlawful decisions by the Nagorno-Karabakh regional Soviet. Two Azerbaijani youths lost their lives in consequence, becoming the first victims of the conflict. The events in Sumgait were also preceded by house-burnings and attacks on Azerbaijanis in Khankendi and by violence against the Azerbaijani population in Armenia claiming its first victims, provoking a flood of Azerbaijani refugees and displaced persons who were directed, among other places, to Sumgait. The crowning circumstance is that the leading figure

in the disturbances in Sumgait was a certain Edward Grigorian, an Armenian and native of Sumgait, who was directly involved in the killings of and violence towards Armenians and the pogroms in the Armenian neighbourhoods. Grigorian was not able to escape, though he had been counted on to do so by those who had guided and directed him. By decision of the Criminal Division of the Azerbaijani Supreme Court dated December 22, 1989, Grigorian was sentenced to 12 years' imprisonment. The Court found Grigorian to be one of the organizers of the unrest and massacres. Depositions by witnesses and victims show that he had a list of flats inhabited by Armenians and, together with three other Armenians, called for reprisals against the Armenians, in which he took part personally. His victims (all Armenians) identified Grigorian as one of the organizers and active figures in the destruction and violence that occurred in Sumgait.

During the disturbances on February 26-28, 1988, in Sumgait, twenty-six Armenians and Azerbaijanis were killed. In all, the Azerbaijani Supreme Court convicted 66 people of crimes in Sumgait. It must be pointed out that the law-enforcement bodies in Armenia did not bring criminal proceedings against a single person for the brutal killings of 216 Azerbaijanis in Armenia in 1988-1989. Events in Sumgait and other Azerbaijani towns, being necessary to the Armenian leadership as a means of launching an extensive anti-Azerbaijani campaign and justifying the ensuing aggressive actions against Azerbaijan, had been planned and prepared in advance. A few days before the beginning of the events in Sumgait several Armenian families, the heads of whom, it later transpired, were closely connected to the "Krunk" Committee, an organization which must shoulder a substantial share of the responsibility for starting the war against Azerbaijan, hurriedly left the city. The only film to chronicle the disturbances, which was promptly distributed around the world, was shot on large-format colour stock by a professional crew from Armenia who had come to Sumgait specially 24 hours before the events there.

But the most telling refutation of the authors' mendacious inventions is undoubtedly the fact that, unlike Armenia, which has purged its territory of all non-Armenians and became a uniquely monoethnic State, more than 30,000 Armenians are still living in the capital of Azerbaijan, Baku, and they are full-fledged citizens of the Republic of Azerbaijan.

It is well-known that in the winter of 1988, a fresh bout of ethnic cleansing began as the culmination of a deliberate policy to destroy all traces of the very existence of Azerbaijanis in Armenia. Under instructions from, and with the blessing of the Armenian authorities, the remaining 40,897 Azerbaijani families (about 200,000 individuals) were forcibly deported from their historical homelands within the present-day Armenian State, and left without homes or belongings. The mass expulsion was accompanied by killings and maimings. During just three days, from November 27 to 29, 1988, in the course of pogroms in the Armenian towns of Gugark, Spitak and Stepanavan 33 Azerbaijanis were killed. In all, 216 Azerbaijanis died during the ethnic cleansing in Armenia in 1988-1989: 49 froze to death, seeking safety from reprisals in the mountains; 41 died of savage beatings; 35 were killed after torture; 115 were burnt alive; 16 were shot; 10, unable to endure the humiliation, died of heart attacks; 2 were killed right in hospital by their Armenian doctors; 3 were drowned; 1 was hanged; 1, not wishing to die an agonizing death, took his own life; 1 was electrocuted; 2 were beheaded; 29 were deliberately run over; 3 died in hospital because they were not given medical treatment; and a further 8 were abducted and vanished without trace. The majority of the dead were children, women and elderly people. They included 5 infants

and 18 children of various ages. Virtually all the attacks on Azerbaijani settlements had the blessing of the official Armenian authorities and were commanded by local leaders and responsible figures or by members of the local law-enforcement bodies. Taking into account the above-mentioned, the deduction of the authors of the report that "*... 8 to 10 month after the expulsion of the Armenians, Azerbaijanis living in the Armenian SSR were selling or exchanging their dwellings and leaving Armenia*" (page 7, point 27 of the report) can not be perceived seriously.

In this context, the following position of the Government of the Republic of Armenia with regard to the rights of the Azerbaijani refugees from Armenia reflected in the statement at the 54th session of the Commission on Human Rights by the Permanent Representative of the Republic of Armenia to the United Nations Office at Geneva is also attracted the attention by its refined cynicism and falsehood: "*We would like to remind the Commission that 168 thousand ethnic Azerbaijanis residing in Armenia at that time were provided enough time and the means to gradually leave the country and exchange and sell their property. Hence, they can not be considered as refugees. Moreover, Armenia has already paid the equivalent of 110 million US dollars as a compensation to Azerbaijani refugees*". Taking into account that the Armenian Government, in reality, still paid no compensation to the Azerbaijani refugees from Armenia, the contrary information disseminated in this regard by the Armenian Government should be the subject of careful consideration by the international community.

Returning to points 23 and 24 of the report containing the absurd allegations about "*... a policy of "ethnocide"*... " and allegedly "*... the appropriation or destruction of* ... " so called "*... monuments of Armenian culture*" (page 7), it should be reminded that during the forcible expulsion of the Azerbaijanis, hundreds of historical relics testifying to the fact that the lands in what is today Armenia had for centuries belonged to Azerbaijanis had been either destroyed or altered to look Armenian. Islamic places of worship and the graves in Azerbaijani cemeteries were defiled; mosques and tombs were damaged or broken up for building materials. To erase from history the fact that Azerbaijanis had lived in the place which is now Armenia, the names of some 2,000 towns and villages that formerly bore Azerbaijani names have been changed; 465 villages were renamed between 1935 and 1973, and 97 in April 1991. The concluding, tragic accord had been made in a meticulously planned campaign of physical extermination of the Azerbaijanis, once the most populous of the national minorities in the Republic of Armenia.

The military aggression of Armenia against Azerbaijan was preceded by anti-constitutional actions in the Nagorno-Karabakh region of Azerbaijan perpetrated by separatist groups receiving outside support; forming the backdrop to these actions were certain decisions taken by the Armenian authorities in contravention of international law. Most notorious of these decisions is the resolution "Reunification of the Armenian Soviet Socialist Republic and Nagorno-Karabakh" adopted by the Armenian Parliament on December 1, 1989. Moreover, in Armenia's Declaration of Sovereignty of August 23, 1990, part of the territory of another State - the Nagorno-Karabakh region of Azerbaijan - is recognized as an integral part of the Republic of Armenia. These decisions of the Armenian Parliament were enacted by its armed forces with the widespread use of mercenary bands and a sudden upsurge in terrorist activity by the Armenian special services and terrorist organizations against sovereign Azerbaijan State with a view to wresting away part of its age-old lands. All-out hostilities began at the end of 1991 and the beginning of 1992 when the armed

forces of Armenia initiated combat operations in the Nagorno-Karabakh region of Azerbaijan using the most sophisticated weapon systems. Since May 1992 armed forces of Armenia have made incursions beyond the borders of the former Nagorno-Karabakh Autonomous Region into other parts of my country.

As a result of about 11th years of war, 20 per cent of the territory of Azerbaijan, comprising Nagorno-Karabakh region and an area four times bigger than that region, has been occupied and held by the armed forces of Armenia.

It should be noted in particular that the Agdere and Agdam districts of Azerbaijan were seized by the armed forces of Armenia following the adoption of United Nations Security Council resolution 822 (1993) of April 30, 1993, which condemned the occupation of the Kelbajar district; the Fizuli district was seized after the adoption of Security Council resolution 853 (1993) of July 29, 1993, condemning the seizure of the Agdam district; and the Djebrail and Kubatly districts were seized after the adoption of Security Council resolution 874 (1993) of October 14, 1993. In its resolution 884 (1993) of November 11, 1993, the Council condemned the occupation of the Zangelan district and the city of Goradiz, attacks on civilians and bombardments of the territory of the Republic of Azerbaijan. In all above-mentioned resolutions, the Security Council underscored respect for the sovereignty, territorial integrity and inviolability of the borders of the Republic of Azerbaijan, and the inadmissibility of using force to acquire territory. It also demanded the immediate cessation of armed hostilities and hostile acts, and the immediate, full and unconditional withdrawal of all occupying forces from the occupied areas of Azerbaijan. Despite the unequivocal demands of the United Nations Security Council and the decisions adopted by the OSCE, Council of Europe and other international organizations in connection with the armed conflict, the Republic of Armenia is still occupying Azerbaijani territories, increasing its military presence there and illegally placing there Armenian settlers.

The military aggression of the Republic of Armenia against the Republic of Azerbaijan pursuant to its policy of acquisition of territory by force and its plans to establish a mythical "Greater Armenia" has resulted in gross and flagrant violations of human rights of the Azerbaijani population which fall within the category of crimes against humanity.

As a result of the aggression of Armenia against Azerbaijan, ethnic cleansing of the territory of Armenia proper and the occupying part of the territory of Azerbaijan, there are currently about 1 million refugees and forcibly displaced persons in Azerbaijan. A total of 900 settlements have been looted and burnt out. Over 9 million square metres of civilian housing, state enterprises and social facilities have been destroyed. The total cost of the destroyed housing and the property removed therefrom amounts to tens of billion dollars. As a result of the aggression by Armenia against Azerbaijan an extremely serious humanitarian situation has developed in Azerbaijan. Every year hundreds of elderly people, women and children die in refugee camps from diseases and epidemics.

Armed forces of Armenia, backed by mercenary formations and Armenian terrorist groups, have killed about 20,000 Azerbaijani citizens and wounded or maimed over 50,000. Thousands are missing and extrajudicial executions and mass shootings of civilians have been carried out. Kidnapped hostages held in Armenia and the occupied areas of Azerbaijan are doing forced labour and being made to endure inhuman treatment, beatings, torture and other gross violations of their human rights.

Finally, no doubt, that the attempts of the Armenian Government to misinterpret the right of peoples to self-determination as a unilateral right of persons belonging to ethnic minority to secession and create their own state, as well as the readiness, in this context, "*... to assist the realization of the right to self-determination anywhere in the world ...*" (point 33, page 8 of the report) represents the open threat to territorial integrity of the existing sovereign States and therefore can not be leave by the international community without attention.